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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

State of Utah et al. v. Google LLC et al.,
Case No. 3:21-cv-05227-JD

Case No. 3:21-md-02981-JD

**STIPULATION AND [PROPOSED]
ORDER RE: DOCUMENTS GOOGLE
PRODUCED TO THE STATES IN
RESPONSE TO CIVIL
INVESTIGATIVE DEMANDS**

Judge: Hon. James Donato

1 WHEREAS, Defendants have represented that they will produce, by October 12, 2021, to
 2 the non-State Plaintiffs (the “Private Plaintiffs”) all documents returned by the application of the
 3 search terms Defendants and the Private Plaintiffs have negotiated for use in this Action to all
 4 documents Defendants produced to the States in response to the CID issued by Nebraska on
 5 January 17, 2020, and to all documents Defendants produced to the States in response to the CID
 6 issued by Utah on July 31, 2020, without any further review or culling by Defendants (the “New
 7 MDL Production”) with exception of de-duplication against documents already produced in this
 8 MDL;

9 NOW, THEREFORE, the Defendants and the Plaintiff States hereby stipulate and agree,
 10 subject to the Court’s approval, as follows:

- 11 1. To expedite production of the above-referenced materials, Defendants will
 12 designate the documents produced pursuant to this Stipulation as HIGHLY
 13 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY under the operative Protective
 14 Order, subject to all Parties’ rights to challenge a designation of confidentiality as
 15 permitted under the operative Protective Order;
- 16 2. Defendants and States will agree on an appropriate form of (a) Bates stamping the
 17 documents produced pursuant to this Stipulation, and (b) a report and/or metadata
 18 fields to be provided by Defendants to States that permits the States to map
 19 documents produced in response to the above-referenced CIDs to those
 20 documents produced in the New MDL Production as well as those documents
 21 withheld from the New MDL Production as duplicates of the pre-existing MDL
 22 production;
- 23 3. To the extent the States seek to use in the MDL a document produced by
 24 Defendants in response to a civil investigative demand (the “CID Documents”)
 25 that was not produced by Defendants during discovery in the MDL, the CID
 26 Document should be produced in accordance with the following protocol:

- a. The States shall not “dump” the CID Documents in the MDL or otherwise give unfettered access to the CID Documents to the Private Plaintiffs;
 - b. The States may produce to the Private Plaintiffs CID Documents which the States believe in good faith are reasonably related to their claims or Defendants’ defenses in the MDL, and which the States reasonably believe may be used as evidence or as the basis for expert testimony in this MDL;
 - c. The States shall provisionally label the CID Document with the highest level of protection under the operative protective order prior to disclosing or using the document, as follows: “PROV – HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” unless third-party information requires a “PROV – NON-PARTY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” designation;
 - d. The States shall assign the CID Document a Bates number specific to the MDL, while preserving the Bates numbering associated with the document as produced in response to the CID;
 - e. For purposes of preserving the rights and obligations under the operative protective order, Google shall be considered the Designating Party and/or Producing Party for any CID Document produced pursuant to this protocol.
 - f. The States shall produce the CID Document simultaneously to all parties to the MDL. For the avoidance of doubt, this requirement does not apply to CID Documents produced by Defendants during discovery in the MDL, including CID Documents eliminated from the New MDL Production as duplicates of the pre-existing MDL production.
4. In the event the States determine that significant numbers of relevant CID Documents have not been captured in Defendants’ production of CID Documents to the Private Plaintiffs, such that efficient cooperation among the plaintiffs has

1 been impeded, the States shall have the right to move for a modification of the
2 above procedures following a meet-and-confer with Defendants.

- 3 5. Nothing in this Stipulation shall be deemed a waiver of Defendants' right to seek
4 a clawback of a document based on a good faith claim of attorney-client privilege
5 or work product protection.

6
7 IT IS SO STIPULATED.

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9 Dated: September 20, 2021

OFFICE OF THE UTAH ATTORNEY
GENERAL
Brendan P. Glackin

11
12 Respectfully submitted,

13 By: /s/ Brendan Glackin
Brendan P. Glackin

14 *Counsel for Utah and the Plaintiff States*

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16
17 Dated: September 20, 2021

MORGAN, LEWIS & BOCKIUS LLP
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Sujal J. Shah
Michelle Park Chiu
Minna L. Naranjo
Rishi P. Satia

21
22 Respectfully submitted,

23 By: /s/ Brian Rocca
Brian C. Rocca

24 *Counsel for Defendants Google LLC et al.*

1 Dated: September 20, 2021

O'MELVENY & MYERS LLP

Daniel M. Petrocelli

Ian Simmons

Benjamin G. Bradshaw

Stephen J. McIntyre

5 Respectfully submitted,

6 By: /s/ Daniel Petrocelli

7 Daniel M. Petrocelli

8 *Counsel for Defendants Google LLC et al.*

9
10 **E-FILING ATTESTATION**

11 I, Brian C. Rocca, am the ECF User whose ID and password are being used to file
12 this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the
13 signatories identified above has concurred in this filing.

14 /s/ Brian C. Rocca

15 Brian C. Rocca

1 **PURSUANT TO STIPULATION IT IS SO ORDERED.**

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3 Dated: _____

4 The Honorable James Donato
5 United States District Judge
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